

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF PROCUREMENT ACTIVITIES
BY THE OFFICE OF
CONTRACTING AND PROCUREMENT
AND THE DEPARTMENT OF
HUMAN SERVICES**



**CHARLES C. MADDOX, ESQ.
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



November 20, 2003

Jacques Abadie, III
Chief Procurement Officer
Office of Contracting and Procurement
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Washington, D.C. 20001

Yvonne D. Gilchrist
Director
Department of Human Services
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Natwar M. Gandhi
Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, N.W., Room 203
Washington, D.C. 20004

Dear Mr. Abadie, Ms. Gilchrist, and Dr. Gandhi:

Enclosed is the final report summarizing the results of the Office of the Inspector General's (OIG) audit of Procurement Activities by the Office of Contracting and Procurement and the Department of Human Services (OIG No. 02-1-3MA).

The four recommendations contained in our draft report represented actions considered necessary to correct deficiencies associated with contract funding. We received a response from the Office of the Chief Financial Officer (OCFO) on October 21, 2003, and from the Office of Contracting and Procurement (OCP) on September 23, 2003, to a draft of this report. The OCFO and OCP responses to our draft report are included in their entirety at Exhibits A and B respectively.

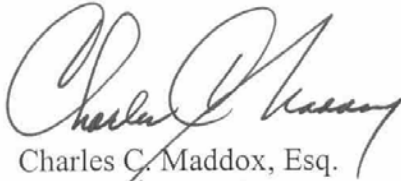
The CFO concurred with the factual findings of our report but did not see the merit in implementing the report recommendations. The OCP concurred with the report findings but opined the best safeguard against violation of financial policies regarding contract funding is when both the OCP and the OCFO collaborate on any deobligation of funds from contracts.

The CFO position appears to be that it was unable to distinguish between billings or services performed pursuant to the contract versus those services rendered without contract coverage. We believe this is the core issue and that it requires the coordinated involvement of the OCP, OCFO and DHS to obtain a solution. Because of the organizational structure of District agencies, it is our opinion that OCP and OCFO cannot independently address the problem but must act jointly to devise a process that satisfies the needs of each agency. To this end, we have merged and revised draft report Recommendations 2, 3 and 4 (now final report Recommendation 2) that OCP and OCFO form a joint committee to develop standard operating procedures at DHS. In response to recommendation 1, the OCFO stated that the Department of Human Services (DHS) did not overspend its budget and therefore, did not violate the Anti-Deficiency Act.

Accordingly, we request that OCPO, the OCFO, and DHS respond to the recommendation in the final report and provide us with a target completion dates for planned corrective actions. All responses to this final report should be received by January 9, 2004.

We appreciate the cooperation and courtesies extended to our staff during the audit. If you have questions, please contact William J. DiVello, Assistant Inspector General for Audits, or me at (202) 727-2540.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles C. Maddox". The signature is fluid and cursive, with the first name "Charles" and last name "Maddox" clearly distinguishable.

Charles C. Maddox, Esq.
Inspector General

CCM/cj

Enclosure

cc: See Distribution List

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**AUDIT OF
PROCUREMENT ACTIVITIES -
OFFICE OF CONTRACTING AND PROCUREMENT/
DEPARTMENT OF HUMAN SERVICES**

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EXECUTIVE DIGEST

OVERVIEW

This report summarizes the Office of the Inspector General's (OIG) audit of Procurement Activities by the Office of Contracting and Procurement and the Department of Human Services. This was one of several planned audits designed to audit procurement and contract administration on a continual basis.

CONCLUSIONS

The report contains one finding. We found that the Department of Human Services (DHS) violated District of Columbia financial policies by deobligating and redirecting funds that were encumbered for existing contracts in order to fund other contracts. The cost of those contracts was satisfied through pooling the deobligated monies and the use of direct payments to the vendors. A direct payment is a funding method usually reserved for unexpected non-procurement events. DHS officials decided to deobligate existing contracts in order to pay for court-ordered contracts, which carry large fines for non-compliance or for untimely contractor reimbursement.

However, the District of Columbia Municipal Regulation (DCMR) 27 and the Financial Policies and Procedures Manual (FP&PM), which is currently in draft, governs how accounts payable will be established and handled in the District. They specifically prohibit the deobligation of funds from existing contracts in order to fund new contracts unless the existing contract is cancelled or some other accommodation is reached to assure the contractor that funding is available. In addition, the FP&PM states that if such a deobligation were to occur, it is a violation of the Anti-Deficiency Act.

A summary of potential benefits resulting from the audit is shown at Exhibit A.

SUMMARY OF RECOMMENDATIONS

Our draft audit report contained 4 recommendations for necessary action to correct the described deficiencies. The recommendations focus on determining if a violation of the Anti-Deficiency Act occurred; finalizing the draft Financial Policies and Procedures Manual and issue it in final version within 60 days; and establishing supervisory oversight control procedures over the deobligation of contracts.

OIG COMMENT

We understand and agree with the OCFO response that the essence of the court decrees and subsequent remedial orders must be adhered to and enforced, and that these court orders take precedence over District procurement regulations. Notwithstanding this agreement on court rulings, the issue addressed in our report centers on adherence to sound contracting practices and fiscal controls. The court decrees, we believe, did not intend that the District override or circumvent its contracting practices and rules, rather it appears that the court wanted to

EXECUTIVE DIGEST

ensure that persons with mental retardation and developmental disorders, who were under District supervision, would continue to receive housing in group homes regardless of the ability to pay for these services. The courts remedial orders made it the Districts responsibility to pay group home providers (vendors) within 30 days of submission of an acceptable invoice. It is our contention that the District is well within its ability to make these payments within 30 days without resorting to use of the direct payment method. The CFO position appears to be that it was unable to distinguish between billings or services performed pursuant to the contract versus those services rendered without contract coverage. We believe this is the core issue and that it requires the coordinated involvement of the OCP, OCFO and DHS to obtain a solution. Because of the organizational structure of District agencies, it is our opinion that OCP and OCFO cannot independently address the problem but must act jointly to devise a process that satisfies the needs of each agency. To this end, we have merged and revised draft report Recommendations 2, 3 and 4 (now final report **Recommendation 2**) that OCP and OCFO form a joint committee to develop standard operating procedures at DHS that reflects:

- a. The maximum use of the expedited payment method for paying vendors who provided housing services to mentally retarded persons;
- b. Adherence to the DCMR Title 27 and other contract and finance policies to ensure prudent business practices are employed to account for payments made to vendors for work performed under each contract, and that contract records reflect such expenditures;
- c. Controls over deobligation of funds on active contracts to include the requirement for using the appropriate contractual mechanism (e.g., modification or change order) to initiate a deobligation of funds; and
- d. A reporting mechanism that tracks the emergency placement of individuals into group homes (vendors) and identifies the placed individual with an applicable contract or non-contract supplied servicer, to establish a control that minimizes the need for direct payments

The complete text of OCP's and the OCFO's response to the draft of this report is included at Exhibits B and C, respectively.

INTRODUCTION

BACKGROUND

The Office of Contracting and Procurement (OCP) Contract Operations

OCP provides essential acquisition services for District agencies that accounts for over \$1.5 billion in acquisitions. As part of contract operations, OCP established agency service bureaus that are located at the various District agencies and organized in one of two clusters, Public Safety or Human Services. However, both of these clusters are managed centrally from OCP headquarters. The Human Services cluster includes the agency-based service bureau for DHS, where approximately, 20 OCP procurement and administrative employees are currently assigned to provide acquisition services for that agency.

Department of Human Services

The overall mission of DHS is to provide quality-of-life support services to disadvantaged individuals and families within the District to improve their lives and to promote maximum self-reliance. The department has eight administrative offices to deliver public assistance and other social and human support services. One of the offices is the Mental Retardation and Developmental Disabilities Administration (MRDDA). That office provides a wide array of residential, rehabilitation, and day program services and promotes life-planning strategies toward the goal of maximizing the quality of life for its customers. Eligible residents are also taught practical living skills and provide vocational training and regular or sheltered employment. DHS contracts with private vendors to provide the above services for MRDDA consumers.

Procurement Activities at DHS

During fiscal years 2001 and 2002, we found that OCP had an average of 182 active contracts for DHS services with a total value of \$67.87 million, excluding purchase and task orders and expired contracts. Of the 182 contracts, 82 were for MRDDA. In addition, DHS made over 3,300 direct payment transactions totaling more than \$31.8 million for the audit period of March 1, 2001, to February 28, 2002.

INTRODUCTION

Court Orders

Over 25 years ago, a class action lawsuit was brought against the District on behalf of persons with mental retardation and developmental disabilities who were under District supervision and who were once housed in the Forest Haven Institution. *Evans v. Washington*, Civ. No. 76-0293 (D.D.C. June 14, 1978) (Pratt Consent Decree). As a result of the litigation, the District entered into a Consent Order approved by the court and known as the Pratt Consent Decree. This order required MRDDA to continue any required services for its customers and required the placement of these customers in group homes that were operated by private vendors. Since the initial decree, the court has issued other remedial orders affecting the programmatic and administrative operations of MRDDA and DHS. One of those remedial orders states that vendors must be paid, in full, within 30 days of submission of an acceptable invoice or be assessed a civil fine of \$5,000 per day until the overdue payments are made. *Evans v. Barry*, Civ. No. 76-0293, Remedial Plan, section I.D. (D.D.C. August 2, 1996) (1996 Remedial Plan).

The 1996 Remedial Plan and other court orders define the standard required by the District government to assure these vendors full and timely payment for services and establishes heavy fines for non-compliance. Title 27 of the District of Columbia Municipal Regulation 27 and the Financial Policies and Procedures Manual (draft) describe how such payments should be handled in order to avoid the expenditure of public funds in excess of the amounts approved for such purposes. If approved expenditure amounts are exceeded, the District is in violation of the Anti-Deficiency Act which was established to insure the integrity of public funds and carries penalties which could include the loss of employment.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of the audit was to determine if the OCP complied with procurement laws, regulations and policies for selected DHS administered contracts. We reviewed selected DHS contracts to determine if there was a proper level of oversight to assure contractor compliance with contract terms and conditions, and whether the contracts were properly obligated and expended.

The audit period covered contracts executed between March 2001 and September 2002. Transactions occurring prior or subsequent to that time frame were included only to report a financial transaction total for fiscal years 2001 and 2002.

To accomplish our audit objectives we reviewed contract files, contract administration records, payment records and obligating documents, financial reports, and other pertinent documentation and information. We interviewed OCP, DHS and MRDDA management and staff personnel. We reviewed pertinent reports and inspections and examined a consultants report on procurement/contracting at MRDDA. The audit was conducted in accordance with generally accepted government auditing standards and included such tests as were considered necessary under the circumstances.